
2000 Wis Eth Bd 03
LOBBYING LAW

The Ethics Board advises that:

- (1) Consistent with statutes that the Ethics Board administers, a company that employs a lobbyist in Wisconsin and its employee may honor a union contract pre-dating the employee's candidacy for election to state government office, that provides for the company to credit an employee for up to two years of seniority during an unpaid leave of absence permitted under the contract.
- (2) The company should not credit the employee with and the employee should not accept credit for more than two years of seniority in connection with a leave of absence granted or taken in connection with the employee's service as a state government official.

Facts

- ¶1 This opinion is based upon these understandings:
- a. You are an employee of a manufacturing company covered by a union contract.
 - b. You are a candidate for the Assembly.
 - c. The company employs a lobbyist to try to influence proposals before Wisconsin's legislature.
 - d. The union contract provides that "any employee selected as a full-time Union representative, or elected or appointed to public office, shall be given a leave of absence without pay for one term only."
 - e. The union contract also provides that an employee continues to accrue seniority during an approved leave of absence. This results in the receipt of years of credited service for calculating pension benefits
 - f. The union contract further provides that leaves of absence may be extended under extenuating circumstances.

Questions

- ¶2 The Ethics Board understands your question to be:

If you are elected to Wisconsin's legislature, may the company you work for, consistent with laws administered by the Ethics Board, credit you with seniority while you are on an unpaid leave of absence from the company to serve in the Legislature, and if so, for how many terms?

Discussion

¶3 Wisconsin law, §13.625, *Wisconsin Statutes*, forbids a business that employs a lobbyist to provide anything of pecuniary value to a state legislator or candidate for election to the Legislature. It is equally unlawful for a legislator or candidate for election to the Legislature to accept anything of pecuniary value from a business that employs a lobbyist.¹ On other occasions the Ethics Board has noted that the lobbying law prohibits an elected state official's receipt of a salary or other remuneration from a business that employs a lobbyist.²

Leave of absence

¶4 If you are elected to the Assembly, the union contract entitles you to take a leave of absence from the company *for one term of office*. The contract was negotiated and in effect prior to your running for office and applies to all covered employees who are elected or appointed to public office or who become full-time union representatives. For this reason, it would not be a use of office or position under the Ethics Code for you to avail yourself of this negotiated provision.³ We accept in this instance the proposition that an

¹ Section 13.625(1)(b) and (2), *Wisconsin Statutes*, provides:

13.625 Prohibited practices. (1) No lobbyist may:

* * *

(b) Furnish to any agency official or legislative employee of the state or to any elective state official or candidate for an elective state office, or to the official's, employee's or candidate's personal campaign committee:

1. Lodging.

2. Transportation.

3. Food, meals, beverages, money or any other thing of pecuniary value, except that a lobbyist may make a campaign contribution to a partisan elective state official or candidate for national, state or local office or to the official's or candidate's personal campaign committee; but a lobbyist may make a contribution to which par. (c) applies only as authorized in par. (c).

* * *

(2) No principal may engage in the practices prohibited under sub. (1) (b) and (c). This subsection does not apply to the furnishing of transportation, lodging, food, meals, beverages or any other thing of pecuniary value which is also made available to the general public.

² 80 Op. Att'y Gen. 205 (1992); 1999 Wis Eth Bd 4, ¶7; 1992 Wis Eth Bd 26, ¶3; 1992 Wis Eth Bd 3, ¶3.

³ Section 19.45(2), *Wisconsin Statutes*, provides

unpaid leave of absence, in itself, is not a thing of pecuniary value that would be prohibited to you under the lobbying law.

Accrual of seniority credit

¶5 The union contract requires the company to credit you with seniority during an unpaid leave of absence for one term. The contract was a promise made and accepted before you became a candidate for state government office. The company, consistent with the statutes the Ethics Board administers, may honor that agreement with you.⁴

¶6 The company's offer of a leave of absence for any more than one term is personal to you, is not generally available to other employees, and is related precisely and entirely to your desire to serve two terms in the Legislature if you are elected. The lobbying law forbids a business that employs a lobbyist in Wisconsin to provide anything of pecuniary value, including accrual of seniority, to a candidate for or occupant of an office of state government.⁵ Although we will not take issue with the company's extending the amount of unpaid leave it will permit you, the company, under Wisconsin law, should not offer and you should not accept accrual of seniority beyond the two years previously agreed upon.

Advice

¶7 The Ethics Board advises that:

(1) Consistent with statutes that the Ethics Board administers, the company for which you work and you may honor a union contract pre-dating your candidacy for election to state government office, that provides for the company to credit you for up to two years of seniority during an unpaid leave of absence permitted under the contract.

19.45(2) No state public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. This subsection does not prohibit a state public official from using the title or prestige of his or her office to obtain contributions permitted and reported as required by ch. 11.

⁴ In a 1992 opinion, the Board said that a state official may receive a pension from a principal if entitlement to the pension accrued prior to the time an individual becomes subject to the lobbying law. 1992 Wis Eth Bd 2. In that case the pension already belonged to the individual, and not to the principal, before the individual subjected himself to the lobbying law. Similarly, the right to accrue seniority while on a leave of absence already belongs to you. A principal may not use the lobbying law to shield itself from an obligation owed to a state official.

⁵ The accrual of seniority has pecuniary value because it counts toward the calculation of your pension benefits when you retire. The company has estimated this to be \$12 per month for a four-year leave of absence.

(2) The company should not credit you with and you should not accept credit for more than two years of seniority in connection with a leave of absence granted or taken in connection with your service as a state government official.

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